

SUBJECT: Guidance for Program Administrators of Community Development Block Grant (CDBG) and HOME-Assisted Projects That Trigger Davis-Bacon Labor Standards
Policy Bulletin #14

EFFECTIVE DATE: June 1, 2002

This policy provides guidance to administrators of CDBG and HOME-assisted projects that potentially may trigger Davis-Bacon Labor Standards. This does not include the rehabilitation of owner-occupied homes or down payment assistance (without construction). However, the following are instances, which illustrate when other housing activities could trigger the applicability of Davis-Bacon wage requirements and Labor Standards. (Please refer to **Attachment A, Davis-Bacon Assessment**, for assistance in determining if Davis-Bacon wage rates apply.) Laborers and mechanics working on the CDBG or HOME-assisted activity would be covered. This policy bulletin addresses the following topics as they relate to Davis-Bacon:

- C Demolition and Re-Use Plans
- C Public Works Activity
- C Rental Rehabilitation
- C Mixed-Use Buildings
- C Volunteers
- C Sweat Equity

Demolition and Re-Use Plans

If the intended use of property after demolition is for a specific public and/or commercial re-use, Davis-Bacon would apply. Public and/or commercial re-use could include a parking lot, park, office building, etc. This policy is not relevant to the tearing off or demolition of a deteriorated porch, outbuilding, or garage during the course of property rehabilitation.

CDBG-Assisted

If the intended re-use of the land after CDBG-assisted demolition is for construction of a residential building with less than eight (8) units, Davis-Bacon would not apply.

HOME-Assisted

If HOME funds are used for the demolition, and CDBG funds are not involved in the project, Davis-Bacon is triggered with the construction of 12 or more HOME-assisted units. (**Note:** HOME program regulations do not allow HOME funds to be used for demolition or acquisition if the re-use is not housing-related.)

Public Works Activity

Unless the local unit of government is using their own employees (termed “force account”) for the completion of the public works project, Davis-Bacon would apply.

Rental Rehabilitation

CDBG-Assisted

If a grantee has received CDBG funds for rehabilitation of rental property, Davis-Bacon applies if the property has eight (8) or more units in the structure. Remember, compliance is determined by the total number of units in the building, not the number actually being rehabilitated. For example, if a building has ten units, but only four of them will be rehabilitated, Davis-Bacon applies for this CDBG-assisted rental rehabilitation project.

HOME-Assisted

Note: The HOME Program trigger for Davis-Bacon is different than CDBG. For HOME funded rental rehabilitation or development, the trigger is a 12 or more HOME-assisted unit. For example, if a building has 20 units, but only 11 will receive HOME assistance, Davis-Bacon is not triggered.

Mixed-Use Buildings

If CDBG-funded rental rehabilitation is occurring in a building that has a mixture of commercial and residential units, and part of the CDBG funded rehabilitation will benefit the commercial portion of the structure, Davis-Bacon applies, regardless of the number of rental units.

The project **would also trigger** Davis-Bacon if the improvements to the commercial part of the building were financed with other (non-federal) funds and the improvements are undertaken as part of the same project.

The cost of the following improvements could be assigned totally to the residential unit(s) and be paid with CDBG funds.

- Roof improvements, if the units directly below the roof (2nd floor, 3rd floor, etc) are all residential units (no office or commercial space).
- Heating system, if it only services the residential unit(s).
- Stairways that lead only to the residential unit(s).
- Windows in the residential unit(s).
- The exterior of the building common only to the residential units (2nd floor, 3rd floor, etc).

The following improvements would be considered to be specific to the commercial part of the building, and if undertaken as part of a CDBG assisted project (regardless of funding source for these improvements) would trigger Davis Bacon labor standards.

- C The exterior of the building on a commercial floor (1st floor of a downtown building with retail or office on the 1st floor)
- C Windows specific to the commercial space
- C Other improvements specific to the commercial space

Please contact your MSHDA Community Development specialist for further guidance when providing CDBG funds to a project involving a mixed use building for technical assistance on Davis-Bacon requirements.

Volunteers

Davis-Bacon and other Labor Standards do not apply to volunteers working on a CDBG or HOME-assisted project. A volunteer is someone who receives no compensation or is paid only expenses, reasonable benefits, or a nominal fee to perform the services for which the individual volunteered and who is not otherwise employed at any time during the construction work.

Sweat Equity

Davis-Bacon prevailing wages do not apply to members of a CDBG or HOME-assisted family, who provide labor in exchange for acquisition of a property for homeownership or provide labor in lieu of, or as a supplement to, rent payments.

Remember, Davis-Bacon requirements differ depending on the funding source (CDBG or HOME) and the type of re-use of the property after the demolition. Should you desire clarification regarding this policy, contact your Community Development (CD) Specialist or CD staff at (517) 373-1974.

Attachments:

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